

January 17, 2007

Marlene Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554



Re: *Ex Parte* Notice
MM Docket No. 99-25 (LPFM Proceeding)

Dear Ms. Dortch:

On Friday, January 12, 2007, Harold Feld of Media Access Project and Pete TreDish of Prometheus Radio Project spoke by phone with Heather Dixon, legal advisor to Chairman Martin.

Mr. Feld and Mr. TreDish discussed the previous compromise proposals including the request for a freeze on processing translator applications, but permitting processing of up to 20 pending applications per applicant. As explained in previous filings, Prometheus, *et al.*, have sought to balance (a) the preclusive effect on LPFM licenses of processing the 13,000 translator applications from the March 2003 window; and (b) prevent those speculating in Commission licenses from continuing to unjustly enrich themselves at the public expense; while, (c) permitting those with pending applications designed to serve real needs for translators to move forward. The number 20 arose out of discussions with certain translator applicants and calculation by Prometheus and others. In response to specific questions, Mr. Feld and Mr. TreDish explained that as the number increased, the likelihood of preclusive effect and the likelihood of speculation grew. Thus, while Prometheus, *et al.*, would strenuously object to a threshold of 50, would object to 40, and would regard 30 as considerably less good than 20, Prometheus cannot provide greater quantification because the numbers represent a balancing of factors. As the Commission is well aware from its own experience, choosing an actual number based on balancing a number of factors is rarely an exact science.

Mr. TreDish also spoke to the issue of resolving encroachments by waiver. He stressed that while the KYRS-LP waiver set a good precedent, LPFM applicants should not need to rely on "sign off" from all local full-power licensees as a condition receiving a waiver. Full power stations may object to a waiver even when it would not cause interference, for reasons unrelated to interference concerns. Rather, the Commission should make it clear that it will exercise its usual standard of review when reviewing such waiver requests. *i.e.*, Whether grant of a waiver would serve the public interest. While the Commission should certainly encourage parties to work together, and should

routinely grant waivers in the absence of objections, the Commission should not grant “veto power” over waiver requests to full power stations.

Pursuant to Section 1.1206(b), 47 C.F.R. §1.1206(b) of the Commission's rules, this letter is being filed electronically with your office today.

Respectfully submitted,

/s/

Harold Feld
Senior Vice President

cc: Heather Dixon